
**Public Safety & Emergency
Preparedness Committee**

HB 2214

Brief Description: Studying the sentencing reform act.

Sponsors: Representatives O'Brien, Rodne, Williams, Ahern, Santos, Hinkle, McCoy, Armstrong, Appleton, Alexander, Goodman, Sells, Kenney, Lantz, Jarrett, Moeller, Kagi, Roberts and Ormsby.

Brief Summary of Bill

- Requires the Washington State Institute for Public Policy to study the Sentencing Reform Act.

Hearing Date: 2/22/07

Staff: Jim Morishima (786-7191).

Background:

Indeterminate Sentencing

Prior to 1984, courts were required to impose "indeterminate" sentences upon persons convicted of felonies. Under this system, offenders were periodically evaluated by the Board of Prison Terms and Parole (now called the Indeterminate Sentence Review Board). If the board found that an offender was rehabilitated, it could parole the offender into the community. Indeterminate sentencing still applies to offenders sentenced for crimes committed prior to July 1, 1984.

The Sentencing Reform Act of 1981

In 1981, the Legislature enacted the Sentencing Reform Act of 1981 (SRA). The purpose of the SRA, expressed in RCW 9.94A.010, is to make the criminal justice system accountable to the public by developing a system for the sentencing of felony offenders that structures, but does not eliminate, discretionary decisions affecting sentences, and to:

- Ensure that the punishment for a crime is proportionate to the seriousness of the offense and the offender's criminal history;
- Promote respect for the law by providing just punishment;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Be commensurate with the punishment imposed on others committing similar offenses;
- Protect the public;
- Offer the offender the opportunity to improve himself or herself;
- Make frugal use of the state's and local governments' resources; and
- Reduce the risk of re-offending by offenders in the community.

The SRA replaced indeterminate sentencing with a "determinate" model. Under determinate sentencing, courts sentence an offender to a specific term of confinement within a "standard range," which is determined based on the offender's criminal history and the seriousness of his or her offense. An offender may be sentenced to an "exceptional sentence" above or below the range if aggravating or mitigating circumstances are present. The SRA applies to offenders sentenced for crimes committed on or after July 1, 1984.

A variety of changes have been made to the SRA since its enactment (both by legislation and initiative). Some of the significant changes that have been made to the SRA include:

- Mandatory terms of supervision in the community;
- Sentencing enhancements (e.g., deadly weapon enhancements, sexual motivation enhancements);
- Life sentences for "persistent offenders" ("three strikes" and "two strikes");
- "Determinate-plus" sentencing for certain sex offenders;
- A separate grid for sentencing drug offenders; and
- New procedures for imposing exceptional sentences (in response to *Blakely v. Washington*).

Because of the ex post facto clauses of the federal and state constitutions, many of the changes made to the SRA may not be applied retroactively. For this reason, the version of the SRA that applies to any given offender depends on the date upon which he or she committed his or her crime.

The Sentencing Guidelines Commission

The Sentencing Guidelines Commission (SGC) was established in the SRA to recommend a determinate sentencing system to the Legislature. The SGC still exists today and has a variety of statutory duties, including:

- Evaluating state sentencing policy, including whether sentencing ranges and standards are consistent with and further: (a) the purposes of the SRA articulated in RCW 9.94A.010 and (b) the intent of the Legislature to emphasize confinement for the violent offender and alternatives to confinement for the non-violent offender;
- Recommending to the Legislature revisions or modifications to the standard sentence ranges, state sentencing policy, and prosecuting standards; and
- Studying the existing criminal code and making periodic recommendations for modification.

The SGC currently consists of the following 24 members:

- Four Superior Court judges;
- Two prosecuting attorneys;
- Two defense attorneys;
- One sheriff or police chief;
- One juvenile court administrator;
- One elected county official;
- One elected city official;

- Four citizens;
- The Secretary of Corrections;
- The Assistant Secretary of the Department of Social and Health Services' Juvenile Rehabilitation Administration;
- The Chair of the Indeterminate Sentence Review Board;
- The Director of the Office of Financial Management; and
- Four members of the Legislature, two from the House of Representatives and two from the Senate (who serve as non-voting members).

Summary of Bill:

The Washington State Institute for Public Policy (WSIPP) must study the SRA. The study must:

- Evaluate the SRA in light of its intended purposes articulated in RCW 9.94A.010;
- Compare the SRA to other adult sentencing systems; and
- Recommend a design for a more ideal and stable criminal justice system.

When performing the study, the WSIPP must consult with the following:

- Prosecutors;
- Judges;
- The Legislature;
- Victim advocate groups;
- Defense attorneys;
- The Department of Corrections;
- Law enforcement;
- Local government;
- The Sentencing Guidelines Commission; and
- Any other persons or groups deemed appropriate by the WSIPP.

The WSIPP must report its findings to the Governor and the Legislature by December 1, 2008.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.